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85-1478

NO_____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1985

Supreme Court, U.S.
FILED
DEC 31 1985
JOSEPH F. SPANIOL, JR.
CLERK

JOE L. EDWARDS
Petitioner

versus,

HAROLD R. GOLDBERG; ANNETTA EDWARDS TURNER JOHN R. KIRWIN; SECRETARY OF HEALTH AND HUMAN SERVICES; HULDAH L.IEBERMAN; MARIANNE O. BATTANI; FORD MOTOR COMPANY PENSION DIV. U.A.W.;WILLIAM LEO CAHALAN
Respondents

Petitione; for a Writ of Certiorari to the United States Court of Appeals For the Sixth Circuit.

JOE L. EDWARDS, PETITIONER
Address 20805 Plymouth
Detroit, Michigan 48228

13 pp

FEDERAL QUESTIONS PRESENTED

Whether the panel of three judges properly or improperly considered the criteria of what constitute unlawful execution on petitioner disability social security benefits of a lump sum that was in violation of the law Title 42, USCS 407(a).

Whether the panel of three judges properly or improperly considered the pertinent part of the law on timeliness of payment ordered by the United States District Court - September 22,1982 and the illegal order stamped in Wayne County Circuit Court Feb.2, 1983. , See Chagnon V. Schewiker (1982 DC Vt.) 560 F. Supp. 71.,) The Secretary must pay benefits within reasonable time after claimant is determined eligible under either Title II, of the social security Act.(42 USCS 401, et.seq. or Title XVI (42,USCS 381 et seq.) District Court will impose 60 day time limit on time for effectuation of payments underTitle II, and XVI, after decisi-

(Cont)
on of ALJ, or appeal consel finding claimant eligible for benefits and 120 day limit for effectuation of payment after Court decison reversing Secretary; These time limit will not apply in case where delay are reasonably attributable to claimant.

Whether the panel of three judges properly or improperly disregarded the unlawful action by Social Security Administration disability Operation Director Huldah Lieberman disregarding the law on timeliness and Title 42, USCS 407(a) and withholding 55% percent of petitioner entitled Social Security disability lump sume and that was inviolation of the law Title 15, USCS 1673(c) which states (Execution or enforcement or garnishment order or process prohibited.(No Court of the United States (or officer or agency thereof) May make, excute or enforce any order or process in violation of this section, (May 29, 1968, P.L. 90-321 Title III, 303, 82 Stat. 163; May 23, 1977, P.L.

95-30 Title III, 312, (a) 92, Stat. 2676.) with facts exhibited before the court showing that defendant Huldah Lieberman allowed the illegal execution and withholding 55% percent of petitioner entitled benefits for a period from February 1983 until June of 19 84 with the illegal obtained Wayne County Circuit Court order of February 2, 1983

Whether the panel of three judges properly or improperly disregarded the pertinent facts in the appendix exhibited document stating that former wife was receiving an spouse amount and receiving the children benefits from petitioner disability Social Security benefits from June 1971 until April of 1980 at which time petitioner disability Social Security benefits was illegal stopped and was reinstated Sept,22,1982 in the United State District Court in No 81-7 4637 and that petitioner have no minor childrens under age 18 as of July, 15, 1981

Whether the panel of three judges pro-

perly or improperly disregard petitioner right to an opportunity to be heard in any lawful proceedings to state his case, agai-st the defendants Harold R. Goldberg et al.

Whether the panel of three judges properly or improperly disregarded that defendant ("Harold R. Goldberg used Unlawful Michigan recently Legislature Act. of 1982 which took effect July 1,1983 Public Act. 294 and 295 Michigan complied laws Annotated 25-176 and 25,164 where minor childrens is involved. Which" defendant Goldberg et al in the futherance of the unlawful conspiracy and invidious discrimination with the unlawful obtained Wayne County Circuit Court orders September 12,1982 and mailed the order to Ford Motor Company-U.A.W. Retirement board of Administration September 16, 1983 and which was making illegal execution and withholding of petitioner Ford Motor Company disability for a period From Nov, 1, 1983 until about October of 1984 and petitioner

did not receive any kind of disability be-
benefits from Ford Motor Company U.A.W From
November 1983 until About October 1984

Whether the panel of three judges properly or improperly disregarded petitioner demand for an oral hearing Arguement" in the United States Court of Appeals for the Sixth Circuit pursuant to Title 28, USCS 16 51(a) to present his case for relief in the alternative the unalwful obtained Wayne County Circuit Court orders in No.73-244-027-DM pursuant to law that petitioner are entitled to relief and injunctive relief Title 28, USCS 1651 and Title 28, USCS 2283.

Whether the panel of three judges properly or improperly disregard that petition herein are entitled to relief (a) on illegal Execution that are in violation of the law Title 42 USCS 407(a) (b) petitioner are entitled to relief on Timeliness of disability payments (c) petitioner are entitled

due to the facts petitioner have no minor childrens under age of 18,years old and the facts thet petitioner youngest child named Veronica Edwards Whitlock gave birth to her first child December 8, 1981,

Whether the panel of three judges properly or improperly disregard the laws and petitioner right to bring action against the defendants Harold R. Goldberg et al in the United States District Court pursuant to Titled 29. USCS 1132(a)(3).," See Stamp. v Michigan Teamester Joint concil No.43 (1177) Ed Mich. 431 F. Supp. 745,95 BNA.LRRM 2260, Appendix H, hereto infra page. 31-B

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The improper use of the new laws by the defendants Harold R. Goldberg et al public Act 294 and 295 which took effect July 1, 1983 which are Michigan Statutes 25,176. 25, 164.,9.

Foot notes omitted. Tex books

instead" Appendix H, hereto infra page 22-B- to 34-B

(I), as of a pattern of racketeering to Collect an unlawful debt" Appendix B, hereto infra page 8-B

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1985

NO_____

JOE L. EDWARDS.
Petitioner

-vs-

HAROLD R. GOLDBERG ET AL.

Respondents

Petition for a Writ of Certiorari
to the United States Court of
Appeals for the Sixth Circuit

TO the Honorable, The Chief justic and Associate Justices of the Supreme Court of the United States.

Joe L. Edwards, the oetitioner herein prays that a writ of certiorari be issued to review the judgment or orders of the United States Sixth Circuit Court of appeals entered in the above case by a panel of Three

judges on about October 7, 1985

OPENION BELOW

The October 7, 1985 openion of the co-rt of appeals for the Sixth Circuit whose judgment sought to be reviewed, The panel of three judges acknowledge that petitioner but did not grant relief accordingly to law. But never the less affirmed the United District court order of September 14, 1984 the judges openion is not published but is reprinted separated Appendix A, hereto infra page 1B 2, The judgment of the United States District court order is reprinted in appendix hereto D, infra page 13-B

JURISDICTION

The judgment of the Court of appeals was entered about October 7, 1985 the Jurisdiction of this court is invoked pursuant Title 28 USCS 1254(1)(2)(3) and 2101(c) and pursuant to the SUPREME COURT Rules 21,the

statutory provision believed to confer on the SUPREME COURT authority to review the orders decree in question and should exercise such authority herein by writ of Certiorari.

CONSTUTIONAL AND STATUTORY PROVISIONS INVOLVED.

This case involved the interpation of Federal Statutes Title 15, USCS 1651 And Title 42 USCS 407(a) 1985 and USCS 1981 And Title 28 USCS 2283 respectly the specific involved petitioner complaints and question relating to the illegal execution on petitioner disability Social Security benefits that was made and executed by defendant Harold R. Goldberg et al and the facts where petitioner have no minor childrens under the age of 18,years old see Michigan Statutes annotated 552,17) Copeland v Copeland (1981) 311 N.W. 2d 452, 109 Mich. App. Appendix H, infra page 31-B

Petitioner brought action against the defendants set forth pursuant the laws and Titles to recover disability benefits illegal attached by defendant Harold R. Goldberg"pursuant to Title 29, USCS 1132(e)(1) providing for concurent" jurisdiction of State and Federal Court over action under 1132(A)(B) give plaintiff choice of bringing Action in federal District Court or State Court Leberman v Pacific Mut. Life Ins. Co. (1980) N.D.CaL.)494 F. Supp. 1020

29 USCS 1132(e)(1) does not expressly provide that action brought in State Court pursuant to it may not be removed to Federal Court so that action brought against benefical association benefit plan to recover benefits benefits allegly due under term of employee benefits was properly removed to Federal District Court under Title 28, USCS (1441) McConell V Marine Egineers beneficial asso, etc. (1981) N.D. Cal 526 F. supp. 770. Appendix H, hereto infra page 30-B

Title 28, USCS jurisdiction in all action brought pursuant to both 42 USCS 1983 and 42 USCS 1985 lies under 28 USCS 1343 on it face padover v Gambler Brother Inc (1977) D.C. Pa. 412 F. Supp 920, Appendix infra page

Provision of 42 USCS 1981 apply to United States it agencys and personal and 28 USCS 1343 empowers Federal District Court to remedy violation of rights granted by section 1981, of Title 28 USCS Henry v Schlesinger (1976(, D.C. PA. 407, F Supp 1179.,

One" "Day in court" the right to be heard on the merits The UNited States Supreme Court has referred to" the right to be heard" As one of the most fundamental requisites of due process." Again has Stated; A fundamental requirement of due process is the opportunity to be heard. See Willner v Comitte on Charter and fittness (1963) 373, US. 96, 10 L. Ed 224 83 S Ct. 1175 2 ALR3d 12-54 Morgan v United States (1938) 304 US 1, 82 L. Ed 1129, 58 S Ct 773 printed in appendix, H, hereto infra page 27-B

states that there was an unlawful (illegal) execution on his disability benefits in violation of the law Title 42 USCS 407(a) and violation of the law Title 15,USCS 1673(c) And violation of Title 18,USCS 1962(A)

STATEMENT OF CASE

Petitioner filed his causes of action against the defendants Harold R. Goldberg et al, In the United States District Court June 12,1984. The complaints and causes of action had alternatives. Complaint for civil enforcement complaints in equity pursuant Title 29, USCS 1132(a)(1)(b)(C)(e) and complaint for Injunctive relief and redress of wrong due to alleged conspiracy and invidious discrimination for the emotional to infliction a wound anguish distress or the like due to the unlawful conduct of the defendants Harold R. Goldberg et al abuse of process and abuse of judicial process the

complaints seeking alternative relief for dammages in the amount up to $9000,00 due to the illegal execution on lump sum social Security disability benefits; And the suffering of withholding petitioner entitled disability from Ford Motor Company---UAW pension division and disability Social Security benefits reduced to $219.00 a month until the disability Operation director Huldah Lieberman wrote the petitioner stating benefits would be garnished until $25.000 00 was recovered for child support. Total disregarding that the Office of disability Operation had paid the childrens of petitioner to Former wife Annetta Edwards Turner from June 6,1971 until April of 1980. petioner youngest Child veronica Edwards was born July 15, 1963 and she was 18, years old July 15, 1981 Veronica Edwards gave birth of her first child December 8,1982 respectively. The cause for action was against the principal defendant Harold R. Goldberg et al,

and the cause of action against the other defendants are due to the wrongful executi-on and sequestration Disability benefits. the records shows that she was remarried one day after being divorced August 30,1974 she remarried August 31,1974 The Court no one shall not pay either party any alimony

The record that defendant Goldberg personal mailed the illegal obtained Wayne County Circuit order and it illegal contents in No.73-244-027 DM to the Department of Disability operation Social Security Administration the same day the illegal Order directing Funds was obtained Feb.2.1983. The alleged facts the defendant never allowed the petitioner any opportunity to be heard or to contest the illegal obtained order in No. 73-244-027 DM Friend of Court No.287603 Defendant Goldberg as alleged illegally conspired and obtained the stamping of his personal made order directing fund of petitioner and injunctive relief (defendant) Gol-

dberg served the illegal order upon the department Health and Human Service Disability of the Social Security Administration February 2, 1983 (he never served a copy upon the petitioner at any time with a copy of the order or any of the pleading," or motion to obtain the order. The defendant Goldberg served the illegal order before the expiring of the 20 days that petitioner have to appeal when a copy of the order illegal obtained is served upon the petitioner pursuant to Michigan General Court Rules of 19=63, 803.1 defendant Goldberg made another order September 12, 1983 for income withholding of a disability income of petitioner using Michigan Legislative 294 and 295 which was passed in 1982 effective July 1,1983 which are Michigan Complied laws Annotated 25,176) and 25,164 what is called support and visation rights where there are minor childrens involved. Defendant Goldberg obtained the stamping in Wayne County Circuit Court of his personal made order Sept. 12,

1983 and served the illegal order upon the Ford Motor Company---U.A.W. Retirement Board of Administration Detroit, Michigan September 16,1983. Defendant Goldberg never served a copy of that illegal order upon petitioner herein at any time to allow the petitioner his rights to any opportunity to be heard, or file a motion to set aside the unlawful (illegally) obtained Stamping of the order for income withholding of petitioner disability income and ford motor Company---U.A.W. knows that it is illegally to withholding any ones disability income and the Facts that Ford Motor Company payroll sent to the wayne county friend of the Court money that petitioner are not entitled to receive," A month and are saying that the petitioner owes the Ford Motor Company U.A.W. pension division some money which have caused great harm dammages imjury to the petitioner.

Defendant Goldberg made another order and was illegal stamped with wayne

County Circuit Court judge stamp february 1,1984 for the disbursement of the unlawful withholding or garnishment of petitioner disability income withholding without the petitioner any opportunity to be heard. due to the alleged unlawful conspiracy and invidious discrimination against the petitionr by the practice custom usage of a concealment: petitioner was mailed a copy of the order February 7, 1984 at which time petitioner filed an appeal to the michigan Court of appeals pursuant to Michigan General Court Rules of 1963, 801.1,

Petitioner filed his entitled causes of action against the defendant et al in the United States District Court due to alleged facts against the defendant Harold R. Goldberg et al because the defendants Huldah Lieberman and the Ford motor Company was not going to release petitioner disability income withholding. That upon filing and serving the complaints for injunctive Relief

pursuant to Title 28. USCS 2283 and complaints for civil enforcement pursuant to Title 29.USCS 1132 (1)(A)(B)(C)(E) and conspiracy abuse of process invidious discrimination seeking alternative relief pursuant to law Title 28 USCS 1331 and 1343 and Title 42 USCS 1981, 1985, 1986, 1988, the complaint of the petitioner was dismissed with prejudices without allowing the petitioner an opportunity to be heard in the United States District Court in No. 84-2745-DT petitioner filed a timely appeal and demanded an oral arguement in the United States Court of appeals for the Sixth Circuit pursuant to the unlawful dismissal of petitioner cause of action for injunctive relief in the United States District Court. The panel of three judges in the appeal Court affirmed the District Court judgment/order without allowing the petitioner any opportunity to be heard in the Courts.

REASON FOR GRANTING WRIT

Petitioner are not at fault for any Child support or any kind of support. petitioner social security disability benefits was reinstated September 22,1982 in the United states District Court No. 81-74637 there was illegal execution on petitioner disability benefits Alleged on Defendant Harold R. Goldberg et al in February 2,1982 in No.73-244-027-DM friend of Court No. 28-7603. There was another illegal execution on petitioner disability benefits in Sep. 16,1983 made by Defendant Goldberg and Defendant Goldberg never did make any kind of service or notice of hearing upon petitioner in any of the Wayne County unlawful proceedings in No.73-244-027 DM Freind of the Court No.287603. Petitioner moves cite Armstrong V. Manzo 380, US. 545 14 L. Ed 62 66, 85 S Ct. 1187. as this case have some similarity. case is Reprinted in Appendix H, infra page 31B as this case concern the

three judges affirmed The United States District Court wrongful dismissal of the plaintiff petitioner complaint with prejudice in No.84-2745 DT without allowing the petitioner any opportunity to be heard in Court September 14,1984 Also the panel of three judges erred in not granting petitioner demand for oral arguement in clear view of the records appendix to the appeal in No. 8401728 that support petitioner just causes for his action for relief against the defendants Harold R. Goldberg et al filed in complaints of petitioner June 12, 1984

Also the law in Title 18,USCS 1962(a it shal be unlawful for any person who has received any income derived directly or indirectly from a pattern of racketeering activity or through collection of an unlawful debt in which such person had participated as a principal within the meaning of section 2, Title 18, United States Code (18) US CS 2 to use or invest directly or indirectly

it has been alleged the principal defendants Harold R. Goldberg and Annetta Edwards Turner" seek to profit and use the illegal garnishment and withholding of petitioner social security benefits and Ford Motor Company --U.A.W. disability benefits of the petitioner with the principal defendant Goldberg illegal execution on petitioner disability benefits. As the principal defendant Goldberg made orders seek to have former wife paid twice as Goldberg can profit with the illegal execution on petitioner disability benefits and the facts that petitioner have no minor childrens under age 18, year old. And in view that the Department of Health and human services of disability Operation of the Social Security Administration have paid former wife for her self and the childrens of petitioner out of his social security disability benefits from June of 1971 until April 1980. These Records of payments stated herein is reprinted in the

Appendix E, Infra page 15-B These records of payment stated herein are exhibited in the appendix in the U.S. Court of appeals for the Sixth Circuit. and these exhibits state what former wife and each child was receiving in 1971 and 1973 wife Annetta $ 45.00 each child $45.00 That have increased since then in 1971 to 1979-1980 Futhermore the opinion from the U.S Court of appeals for the Sixth Circuit states that the case is a domestic case. And based on that opinion the Department of Health and Human Services Disability Operation of the Social Security Administration owes" former wife annetta and one child some amount of money in the thousand of dollars. The pertinent fact of the law states a divorce will not terminate a spouse portion of what wife was receiving benefits from her husband before former wife filed for divorce in 1973 and was granted a divorce in August 30,1974 and remarried August 31 1974 this are based on

the law Title 42 USCS 416(d) Divorced wife'" Divorced (1) The term "Divorced wife mean a woman divorced from an individual, but only if she had been married to such individual for a period of 20 Years immeduately before the divorce effective.; The Law Title 42 USCS 416(d) have been amended to allow a spouse benefits after 10 years of marriage. The panel of three judges erred in not execirsing jurisdiction pursuant to the law Title 28 USCS 1651(a) and pursuant to the illegal execution on petitioner disability benefits that was in violation of the law Title 42 USCS 407(a) and Title 15 USCS 1673(c) Title 15 USCS 1673 are for person working and receiving weekly income or by-weekly income however if Title 15 1673 is violated and deprived a person due process of law enforcement of garnishment orders is prohibited. Moreover the case of United States v. Morton U.S. 104 S Ct. 2769, 81 L Ed 2d 680, 1984.) petitioner believes the Uni-

d States Court of appeal for the Sixth
rcuit erred in their opinion in citing
e case of United States v Morton to affi-
ing the United States District Court Jud-
ent/order in Case No.84-2745 DT the peti-
oner cause of Action against the defenda-
Goldberg et al are entirely different
d shouldn't be allowed to be compared wi-
due to facts and law that former wife
ve been paid by Social Security Administ-
tion from The Office of Disability Opera-
on from 1971 to 1980. Out of disability
enefits of petitioner Social Security ben-
fits. And the case cited are entirely dif-
erent than the case cited as this case are
usally" anomalous) and do not run analogy
the case stated in the three Judges Opi-
on in No.84-1728 This case of alleged co-
spiracy defendant Goldberg et al making il-
egal execution on petitioner disability be-
efits that are in violation of the law Ti-
le 42 USCS 407(a) and invidious discrimin-
tion and deprivation of right of petitio-

ner to contest these cases/orders illegally obtained in Wayne County Circuit Court in case No.73-244-027 DM and that the illegal orders was repeated obtained the illegal stamping with different Wayne County Circuit Court judges Stamping on the Orders in No 73-244-027 DM alleged against defendant Goldberg in February 2,1983 September 12, 1983 and February 1,1984 are what petitioner causes of action against the Defendants Goldberg et al for the unlawful execution on petitioner disability Social Security benefits and the illegal execution on petitioner Ford Motor Company---U.A.W. See Brinkerhoff Farris Trust & Saving v. Hill (1930) 281 US 673, 74 L. Ed 1107 1112, 50 S Ct. 451 is printed in Appendix H, infra 24-B

Also Michigan Statutes Annotated 25, 97 and 552,17 Jurisdiction over children of divorced parents remain in court which granted divorce until youngest child attain age 18, years old Eigner v Eigner (1977)

261 N.W. 2d 254, 79, Mich. App. 189 child support payments are not considered property of custodial parent and are soley for the benefits of child Copeland v. Copeland (1981) 311, N.W. 2d 452 109 Mich. App.683

Jurisdiction in divorce cases is statutory and every power exercise by Court must have its source in statutes or it does not exist Ewald v. Ewald (1968) 166 N.W. 2d 49 14, Mich. App 665. Trial court retains jurisdiction of custody in divorce cases Lem v.Lem 1968) 162 N.W. 2d 683 12, Mich. App. 174 this in Appendix infra page

Petitioner states that no parent had custody of children after July 15,1981 petitioner youngest child Veronica Edwards Whitlock have to childrens by her on choice her first child she gave birth to was in December 8, 1981. Petitioner have five grandchildrens Rena Edwards Robinson My First grandchild was born December 9,1977) son Dwight Edwards the father of one child

born in 1979. And the amount that each child of petitioner was receiving in 1974 of each child benefits was over $45.00 for each child. That increased with the cost of living from Social Security Disability benefits from petitioner. There are not any provision in the divorce transcript of 19 74 that payment continue beyound the majority of each child which mean the children or child leave former wife custody or get married which ever come first. There are provision in the trial transcript of 1974 stating if the finicial circumstances of petitioner changes. The Court trial judge states for the petitioner to come back to court and tell(him), the trial judge the late Joseph G. Rashid. Judge Rashid departed this earth in late 1981 and petitioner had no minor childrens involved under the age 18, years old.

Defendant Goldberg made order have Four different Wayne County Circuit Court

Judges stamped on the illegal made orders by Defendant Goldberg et al Thedore R.Bohn, John R. Kirwin, Marianne O. Battani, William Leo Cahalan. Neither one of the Judges allowed the petitioner any opportunity to be heard before the illegal order was obtained by defendant Goldberg. The exhibits are attached to the U.S. Court of Appeals for the Sixth Circuit in case No. 84-1728 in complaint alleged against the principal defendant Harold R. Goldberg used to make the execution on petitioner disability benefits. Which was illegal execution alleged on defendants Goldberg et al filed June 12, 1984 complaints for immediate cò-sideration for injunctive relief Petitioner was told that United States District Court Judge Thornton was on vacation from June of 1984 Until September 10,1984.

Petitioner motion for immediate consideration for injunctive relief was reassigned to Magistrate Carlson to hear and

determin any pre trial hearing pending before the Court. Magistrate Carlson did not allow petitioner any opportunity to be heard for oral arguement hearing.

The Law Title 28, USCS 636(A) a judge ma designate a Magistrate to hear and determine pre trial matters pending before the Court except a motion for injunctive relief. The magistrate mailed a Copy of report and recommendation to petitioner, petitioner filed a timely objection to the Magistrate report and recommendation before United States District Court Judge Thornton., Judge Thornton entered the Magistrate report and recommendation without allowing the petitioner any opportunity to be heard where an oral arguement was written demanded. And an oral arguement are written demanded in the United States Court of appeals for the Sixth Circuit. The panel of three judges never allowed the petitioner any opportunity to be heard and

present his case for relief against the defendants Harold R. Goldberg et al pursuant to timeliness. Petitioner moves cite Chagnon v. Schweiker (1982) DC Vt. 560, F Supp. 71 Secretary of Health and Human Services must pay benefits within 120 day limit after Court Decision reversing Secretary.

A.) Relief can be granted in favor of petitioner in the United States Court of Appeals for the Sixth Circuit, pursuant to just causes and the law Title 28, USCS 1651(a) Relief can be granted pursuant to the illegal execution on petitioner disability benefits in violation of the law Title 42 407(a)

B.) Relief can be granted on timeliness that Secretary of Health And Humans Service must pay benefits within 120 day limit. pursuant to the Decision from the United States District Court September 22,1982 in number 81-74637

C.) Relief can be granted pursuant to the facts that defendant Huldah Lieberman allowed the illegal execution on petitioner disability Social Security for a period from February 1983 until June of 1984.

D.) Relief can be granted on the law Title 29 USCS 1132(1)(a).

E.) Relief can be granted pursuant to the facts that Ford Motor Company pension division---U.A.W did not" pay the petitioner anything from November 1983 until about October 1984.

CONCLUSION

Wherefore, for the reason stated herein petitioner respectfully pray that a writ of certiorari be granted

Respectfully submitted by

Joe L. Edwards

JOE L. EDWARDS THE PETITIONER
Address 20805 Plymouth
Detroit, Michigan 48228, (313) 838-9821)

APPENDIX.

REPRINTED APPENDIX.A.

UNITED STATES COURT OF APPEALS FOR

THE SIXTH CIRCUIT

U.S. Post Office & Courthouse Building

CiNCINNATI, OHIO 45202

JOHN P. HEHMAN
CLERK

OCTOBER 7,1985

Joe L. Edwards
16625 Schefer Highway
Appartment 30
Detroit, Michigan 48235

RE: 84-1728 Joe L. Edwards

v. Harold R. Goldberg et al

D:C:d 84-2745/Thornton

Dear Mr. Edwards:

Enclosed please find a copy of the Court"s decision which was entered today in the above-stiled appeal

Yours very truly

JOHN P. HEHMAN, Clerk

Tom Bennignus, Deputy

Enclosure
XC: Robert A. Mossing,Richard A. MONASH,
Joseph F Chiesa Joel M Shere Joseph F.Chiesa

No. 84-1728

APPENDIX(A.)

UNITED STATES COURT OF APPEALS FOR
SIXTH CIRCUIT
U.S. POST OFFICE & COURT HOUSE BUILDING

JOE L. EDWARDS
Plaintiff-Appellant

v.

HAROLD R, GOLDBERG;
ANNETTA EDWARDS TURNER
JOHN R. KIRWIN; SECRETARY OF
HEALTH AND HUMAN SERVICES;
HULDAH LIEBERMAN;
MARIANNE O. BATTANI; FORD MOTOR
COMPANY, PENSION DIV., U.A.W.
WILLIAM LEO CAHALAN
Defendants-Appellees.

FILED
OCT.
1985
JOHN P.
HEHMAN
Clerk

BEFORE; LIVELY, Chief judge; WELLFORD, Circuit Judge, and BROWN, Senior Circuit Judge

This pro se Michigan plaintiff appeals from a district court judgment adopting the Magistrate's report and recommendation to dismiss dismiss plaintiff's civil rights complaint on the bases of judicial immunity

Younger abstention and under the doctrine of res judicata and collateral estoppel.

Filing his complaint under multiple civil rights statutes and seeking declaratory, injunctive and monetary relief, plaintiff sued the above-styled defendants alleging that they have all conspired to illegally have ductions be taken from his exempt disability and Ford pension benefits in order to satisfy a state court judgment for child support entered in conjunction with his divorce decree in 1974. Plaintiff made many allegations charging that he is not liable for child support payments because his children have attained the age of eighteen, his ex-wife has remarried, and he was not afforded due process notice and hearing before the state court orders of garnishment were issued upon his disability and pension benefits.

Upon review of the parties' appelate arguements presented to this Court which

included the plaintiff's claims asserted in the district court and claims that he should have received a hearing in the district court, this Court concludes that plaintiff's lawsuit was properly was properly dismissed for several reason. Under the circumstances of this case, principals of comity amply support the district court's decision to abstain from exercising jurisdiction over plaintiff's lawsuit on the bsis of Younger abstention. See Middlesex County Ethics Committee v. Garden State Bar Assocation, 457 U.S. 423, 431- 32 (1982); Parker v. Turner, 626 F. 2d 1 (6th Cir. 1980). In addition, it is clear that the federal courts generally lack jurisdiction to review domestic relations matters like this one which would require the federal courts to review plaintiff's divorce decree, Zak v. Pilla, 698 F.2d 800 (6th Cir.1982) (per curiam); Fireston v. Cleveland Trust CO. 654 F.2d 1212(6th Cir. 1981);

Parker v. turner 626 F.2d at 7-8 In addition, the dismissal of plaintiff's suit was proper because he seeks redress for deprivation of property without procedural due process for which he is seeking adequate redress in Michigan state courts. Parratt v. Taylor, 451 U.S. 525 (1981): Vicory v. Walton 721 F.2d 1062 (6th. Cir. 1983), Cert. denied, 105 S.Ct. 125 (1984).

Finally, it is also clear that the plaintiff's primary appellate arguement concerning the exempt status of his social security benefits is without merit. Under 42 U.S.C. 662(f)(2) and 659(a), social security benefits are subject to orders of garnishment to satify child support obligation; and, the government is not liable for honoring such a writ of garnishment even if the issueing court liked personal jurisdiction over the obligator. United States v. Morton U.S. 104 S.Ct. 2769, 81 L.Ed 2d 680 (1984) Loftin v. Rush 767 F.2d

800 (11th Cir. 1985).

For these reasons, this panel unanimously agree that oral arguement is not necessary in this appeal. Rule 34(a), Federal Rules of Appellate Procedure. The district court's judgment is accordingly, affirmed for the aforementioned reason pursuant to Rule 9(d)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

_____

Clerk

APPENDIX---B

42 USCS 407 (a) The right of any person to any person to any future payment under this Title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

(b) No other provision of law, enacted before, on, or after the date of the enactment of this section (enacted Aug. 14,1935), may be construed to limit, supersede, or otherwise modify the provision of this section except to the extent that it does,so by express reference to this section.
(As amended Apr. 20,1983, P.L. 98-21,Title III,Part C. 335(a), 97 Stat, 130)

Title 15 USCS 1673(c) Execution or enforcement of garnishment order or process prohibited. No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in volation of this section.
(May 29, 1968, P.L. 90-321, Title III, 303, 82 Stat. 163; May 23, 1977, P.L. 95-30,Title v. 501(e)-(3), 91 Stat. 161; Nov. 6, 1978 P.L. 97-598, Title III, 312(a), 92 Stat. 2676)

APPENDIX (B)

APPENDIX (B)

Title 18, USCS 1962(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2,Title 18, United States Code(18 USCS 2), to use or invest, directly or indirectly, any part of such income, or the proceeds of such income. in acquistion of any interest in, or the establishment or operation of, any enterprise which is engaged in,

(d) It shall be unlawful for any person to sonspire to violate any provision of subsection(a), (b) or(C) of this Section. Added Oct. 15, 1970, P.L. 91-452, Title IX, 901 (a), 84, Stat. 941.)

Title 28, USCS 1331 Federal questions; Amount in controversy; cost (a) The District courts shall have original jurisdict-

ion of all civil action wherein the matte-er in controversy exceeds the sum of value of $10.000.00 exclusive of interest and co-sts and arise under the constitution, laws, or treaties, of the United States, except that no, such action brought against the United States, any agency thereof, or any officer employee thereof in his official Capacity.

Title 28, USCS 1343 Civil right and elective francises. The District courts sh-all have original jurisdiction of any civil action authorized by law to be commenced by any person: (1) TO Recover dammages from any person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in the futherance of any conspiracy Mention in section 1985 or title(42. USCS 1985.); (2) To recover dammages from any person who fails to prevent or to aid in preventing any wrong mentioned in section 1985 of Title 42, which he has knowledge

were about to accur and power to prevent; (3), To redress the deprivation, under color of any State law, statutes, ordinance, regulation. custom or usage, of any right, privileges or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizen or all person within the jurisdiction of the United States (4) To recover dammages or to secure equitable or other relief under any Act of Congress providing for the protection of civil right, including the right to vote.
(June 25, 1948, c. 646, 1, 62, Stat. 932; Sep. 3, 1954, c. 1263, 42, 68, Stat. 1241; Sep. 9, 1957, P.L. 85-315, Part. III, 121, 71, Stat. 637.)

Title 29, USCS 1132 (a) (1) (A) (c) Administrator's refusal to supply requsted information. Social Security Disability Operation, Ford Motor Company--U.A.W. Retirement Board of Administration.

Sept. 2, 1974, P.L. 93-406, Title I, subtitle B, Part 5, 502, 88, Stat. 891; Sept. 26, 1980. P. 96-364, Title III, 306(b),94, Stat, 1295.)

Title 42, USCS 416, (d) Divorced wives divorce (1) The terms "divorced wife mean a woman divorced from an individual, but only if she had been married to such individual for a period of 20 years immediately before the date the divorce became effective. The law of 416,(d) have been Ammended and reduce to 10,years Petitioner was married to former wife from march 4,1954. we was divorced August 30,1974.

APPENDIX, C,

Defendant Huldah Lieberman department of disability Operation of social security Administration disregarding the pertinent facts that disability Operation had paid former wife Annetta for the childrens of petitioner from 1971 until 1980 at which

petitioner disability benefits was illegal stopped due to misapplication of the law and was reinstated Sept.22, 1982 from judgment and orders from the United States District Court in case No. 81-74637 and defendant Lieberman did not adhere to timeliness that claimant should be paid when the district court reverse the secretary, Secretary must pay claimant within 120 days after district court reverseing the Secretary. Chagnon v. Schweiker (1982) D.C. Vt) 560, F. Supp. 71. And defendant lieberman held the unlawful illegal order withholding" 55% per cent of petitioner entitled disability benefits for a period from February 1983 Unitl June of 1984. and Ford Motor" Company allowed the illegal income withholding, withholding" disability benefits income from November 1093 Until about Oct. 1984 and there never was any attemps made before upon petitioner disability Disability before 1983, and the facts that petit-

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ioner have no minor childrens as of July 15, 1981, under the age of 18, old which are Constitutional right violations and the deprivation of rights. Where the United States Constitution maybe called into question by petitioner herein.

APPENDIX--D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOE L. EDWARDS
Plaintiff, Civil Action NO. 84-CV-2745-DT

-vs-

HAROLD R. GOLDBERG, ANNETTA EDWARDS TURNER, JOHN R. KIRWIN SECRETARY OF HEALTH AND HUMAN SERVICES, HULDAH LIEBERMAN, FORD MOTOR COMPANY---U.A.W. WILLIAM LEO CAHALAN
Defendants

ORDER

The Court has reviewed the file and the

Magistrate's Report and Recommendation submitted herein and any timely objections filed hereto. The proposed Report and Recommendation of the Magistrate is hereby accepted and entered as the findings and conclusion of the COURT.;

Now, Therefore, IT IS ORDERED that Defendants " Motion for summary judgment should be granted and the instant case be dismissed with prejudices.

THOMAS P. THORNTON
UNITED STATES DISTRICT COURT
JUDGE.

DATED Sept. 14, 1984

APPENDIX---E, Next page
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DEPARTMENT OF (APPENDIX--E)
HEALTH EDUCATION AND WELFARE
SOCIAL SECURITY ADMINISTRATION

CLAIM NO.
432-56-4234

Date 2/21/73

This is to certify that the person(s) Named Below became Entitled to the Insurance benefits benefits Shown payable under Title II And XVIII of the Social Security Act.

Name And Address of payee as the claimant or as Representative of the claimant

Joe L. & Annetta Edwards
16800 Birwood
Detroit, Mich, 48221

Type of BENEFITS
Disability

Date of Entitlement
6/71

Monthly Benefits

6/71..... $265.20

9/72..... $318.30

Amount of First Check
$4177.13

Joe L. ---------- $227.40
$272.90

Annetta .... wife.....	9/72	$318.30
Annetta For		
Dwight E	6/71	$37.80
	9/72	$45.40
Rena M.	6/71	$37.80
	9/72	$45.40
Perrietta M.....	6/71	$37.80
	9/72	$45.40
Veronica L.	6/71	$37.80
	9/72	$45.40

Amount of first Check
Paid to Annetta For
Childrens $2382. 00

The Change in benefits is due to the amendments to the Social Security Act. And adjustment in benefits may be necessary if you receive payment under a workmen's compensation plan. You Should notify us immediately when a decision is made on your workmen's compension claim.

This action supersedes our previous determination and is in accordance with the deision of the administrative law judge.

We are sending a copy of this to your attonery.

The right to receive social security benefits carry with it certain responsibilities. They are explained in the booklet carefully. Be sure that you understand clearly what you can expect by way of benefits, and what is to be expected of you. If you have any questions or wish additional information about your benefits, please get in touch with any social security office. Most question can be handled by telephone or mail. If you visit an office, however, please take this Certificate with you.

Robert M. Ball

Commission of Social Security.

APPENDIX--- F. Next Page

APPENDIX---F

Department Of Health, Education And Welfare.

Social Security Administration

P.O. Box 1075, Baltimore. Maryland 21203

BUREAU OF
DISABILITY INSURANCE

Refere to

IDI:676:TD-III MAY 23,1974

432-56-4234 HA

Mr. Joe L. Edwards
Box 159, College Park Station
Detroit, Michigan 48221

Dear Mr. Edwards:

This is in reference to your recent inquiry about the correctness of the check for $701.79 recently sent you.

as we previously informed you, a total of $2,186.37 was withheld from the past-due benefits for possible direct payment of attonery fees. An additional sum totalling $992.50 was withheld from the benefits of your wife and children.

When we were informed by the bureau of hearing an appeals that your attonery was authorized to charge and receive a fee in the amount of $900.00, we figured your share of this approved fee as $492.08, leaving $701.79 to be released to you ($1, 193. 87 minus $492.08 equals $701.79).

We did the same thing with the benefits withheld from your wife and children; that is, we subtracted their respective share of the approved fee from the amount withheld in order to find the amounts to be released to them.

Our review shows that the check for $701. 79 was correctly figured

Sincerely yours

Robert J. Duvall,

Director

Division of Reconsideration

APPENDIX---G.

REPORT OF

CONFIDENTIAL SOCIAL SECURITY BENEFIT INFORMATION.

Information about a person's Social Security benefits is confidential by law. Except under certain circumstances specified by law and regulations, The Social Security Administration does not reveal such information to any person except the beneficiary involved, or his or her authorized repsentive.

Social SEcurity Claim Number Bic. Cl.
432-56-4234 Beneficary's Name and Address
Annetta Edwards For, Veronica L. Edwards
16800 Birwood Detroit, MI. 48221.

1. Name of person or agency from whom a request for benefits information was received. ( ) Beneficary ( ) Other(Shown name and address).

The person or agency named in itim (1) above has requested information above your

benefits. The Information requested has been provided in the items checked (/) below and is being sent to you for your convenience. if you want the requesting agency(other than yourself) to have this information, you may show or send them, this official report.

2.(X) The gross amount of your monthly social security benefits is $179.20
the amount deducted for Medicare. is..$.0.
The net amount of your social security check each month is $179.20

3.(X) The above amount became effective.-
June, 1979,

Signature and Title Authorized Official.
W. Edwards Service Rep.
9768 Grand River Detroit, Michigan 48204
Telephone No. (313) 226-6707 4-24,1980

APPENDIX---H.,

TEX BOOKS.,

Armstrong v. Manzo (1965) 380, US 545, 14 L Ed 2d 62, 66, 85 S Ct. 1187, Failure to give petitioner Notice of pending adopting proceeding deprived him of his right without due process of law.,.....

Defendant Goldberg illegally obtained the stamping of his made illegal order in number 73-244-027 DM and Friend of Court number 287603, And the alleged facts that defendant Goldberg" never made any kind of service or Notice" of hearing upon petitioner in number 73-244-027 DM Friend of Court Number 287603 and that motion was to be heard by Friend of court Refree Adalee Jones February 1, 1983 and Friend of Court Refree Jones dismissed defendants

Goldberg motion February 1, 1983 for want of jurisdiction. "case Cited" Jurisdiction over childrens of divorced parents remains in court which granted divorce until the youngest child attains age 18, years old." Eigner v. Eigner (1977) 261, N.W. 2d 254, 79, Mich. App. 189.

The alleged unlawful conspiracy and invidious discrimination to the emotional infliction of a wound distress alleged against defendants Harold R. Goldberg et al made orders Stamped February 2, 1983 deprived the petitioner any kind of opportunity to be heard due to the alleged facts that there never was any kind of notice made upon petitioner that defendant Kirwin was going to hear the case in number 73-244-027 DM February 2, 1983 and that

defendant Goldberg served that illegal obtained February 2,1983 order upon the Department of Health and Human Services of the Disability Operation of the Social Security Administration Feb.2,1983 and never upon the petitioner at anytime.

Brinkerhoff-Faris Trust & Saving Co. v. Hill (1930) 281 US 673 74. L Ed 11 07 1112 50 S Ct. 451 A Federal claim first raised by petitioner for rehearing in a State court is in time for purpose of review here if it was at the first opportunity even though the petitioner was denied opinion.,.....

Petitioner filed a motion for rehearing before Friend of Court Refree Jones, in February of 1983 after receiving a" letter from the Social Security Administration branch office at 19355 Livernois Detroit, Michigan 48221, Motion for rehe-

aring filed by petitioner was held March 1,1983 at which time petitioner learned that friend of court refree Jones,never did issue any written openion as it is required by law and Circuit Court--Wayne County Rules 10,.4 Amended September 8,1982 Eff. September 15, 1982 Defendant Goldberg as alleged obtained the illegal" Stamping on another illegal made order September 12, 1983 and defendant served that illegal made order upon the Ford Motor Company--U.A.W. Retirement Board of Administration Sept. 16,1983 and never served a copy of that order upon the petitioner. Petitioner filed complaints invoking the jurisdiction of the United States District Court in number 83-CV4 127 and 128 For injunctive relief. Petitioner complaints and motion was

dismissed "Without prejudices. This was the first opportunity that petitioner had and there was a written-opinion 83CV4127 and 128 DT.

Chagnon v. Schweiker (1982) DC Vt. 560, F Supp. 71., Class Action was brought in which plaintiff sought declaratory and injunctive relief" from delay encountered between time they were determined eligible for benefits and time they actually received disability insurance and/or supplemental security benefits. Cross Motions for summary judgment was filed the District Court. Holder J. held that (1) Secretary of Health and human Services must pay benefits within reasonable time after claimaant is determined eligible, and (2) effectuation of payments must be made within 60 days after determination of eligible, and 120 day time limit

for effectuation of payments after Court Decision reversing Secretary.

Defendant Huldah Lieberman total disregarded the time limits.

.....

Morgan v. United States (1938) 304 US 1, 82 L Ed 1129, 58 S Ct. 773. An order of the Secretary of Agriculture fixing the maxium notes to be charged by market agencies) (Commission Men) at stockyeard held void for failure to allow the "full" hearing" before the Secretary required by the packers and stockyard Act. Morgan v. United States 298 US 468 P.13

(2) In administrative proceeding of a quasi--Judicial character the liberty and property of the citizen must be protected by the rudimentary requirement of fair play; these dem-

ands a fair and open hearing.,..

Petitioner the alleged conspiracy and invidious discrimination against the defendants Harold R. Goldberg et al total Disregarded the illegal execution in violation of Title 42 US CS 407(a).

Willner v. Comitte on Character and fittness (1963) 373 US. 96, 10, L Ed 2d 224, 83, S Ct. 1175 2 ALR3d, 1254 (c) Procedural due process and cross examination of those whose words deprives a person of his livelihood . Pp. 103-104.,.....

Provision of 42 USCS 1981, Apply to United States it agencies and personal, and 28, USCS 1343 empowers Federal District Court

to remedy violation of rights granted by 1981, Henry v. Schlesinger (1976), DC Pa.) 407 F. Supp. 1179..,.....

Jurisdiction in all action brought pursuant to both 42 USCS 1983 and 42 USCS 1985 lies under 28, USCS 1343 on its face., Padover v. Gambling Brother, Inc. 1976, DC Pa.) 412 F Supp. 920.,.....

29 USCS 1132(e)(1), providing for concurrent jurisdiction of state and Federal court over actions under 1132 (a)(1)(B), gives plaintiff choice of bringing action in Federal District Court or state court, and defendant, in his own direction, is not able to nullify that choice by removing to Federal District Court any case that plaintiff elects to file in state court. Leberman v. Pacific Mut. Life

Ins. Co. (1980) CD Cal.) 494 F. Supp. 1020.,.....

29 USCS 1132(e)(1) does not expressly provide that action brought in state courts pursuant to it may not be removed to Federal Courts so that action brought against beneficial association benefits plan to - recover benefits allegedly due under terms of employee benefits plan was properly removed to Federal District Court any case that plaintiff elects to file in state court under 28 USCS 1441 (a) McConell v. Marine Engineers Beneficial Asso. etc. (1981) ND Cal.) 526 F. Supp. 770.,.....

29 USCS 1132(a)(3) clearly and specifically creates civil action for equitable relief" 1132(a)(1)(B) creates different civil action

for civil relief.; Plaintiff claims against pension funds for benefits due and owing to him as retired employee and union members arose under 1132(a)(1)(B), and thus became legal rather than equitable and were triable to jury upon demand. Stamp v. Michigan Teamster joint Concil No.43 (1977) ED Mich. 431 F Supp. 745, 95 BNA LRRM 22-60,....,.....

MICHIGAN STATUTES ANNOTATED

Copeland v. Copeland (1981) 311 N.W. 452, 109 Mich. App. 683, Child support payments are not considered property of custodial parent and are soley for benefit of child.,.....

Eigner v. Eigner (1977) 261 N.W. 2d 254, 79, Mich. App. 189 Jurisdiction over childrens of divorced parents remain in court which granted divorce

until youngest child attains age 18, years old. ,.....

Ewald v. Ewald (1968) 166, N.W. 2d 49, 14, Mich. App. 665, Jurisdiction in divorce cases is statutory and every power exercised by court must have its sources in Statutes or it does not exist.,,.....

Lem v. Lem (1968) 162, N.W. 2d 683,12, Mich. App. 174, Trial Court retains jurisdiction of custody of childrens in divorce cases. The Defendants Harold R. Goldberg et al, illegally used Michigan public Act of 1982. Act Number 294 and 295 eff. July 1,1983 and are called visation right and support where minor childrens are involved,which are 552-602 25,176, 25, 164. (g)" source of income" means an employer or successor employer or any

other person who owes or will owe income" to the payer should take effect, in which case the order of income withholding shall be "delayed" pending the outcome of the hearing.,...

Michigan Complied laws Annotated 552-17 Divorce decree which denied any alimony could not be amended or modified to provide for alimony, Ferra v. Ferra (1969) 168 N.W. 2d 475, 16, Mich. App. 661,.,.....

The official transcript of July 29, 1974 and August 30,1974, a trial was held and the late Circuit Court Judge Joseph G. Rashid held in number 73-244-027 DM Adjudged neither party shall pay the other any alimony.

The alleged illegal order of Feb,2, 1983 which held petitioner disability benefits illegally until July 1, 1983

when public Act. 294 and 295 took effect no benefits was released to the office of the Friend of Court in Number 287603 until 1984 and petitioner was again deprived of any opportunity to be heard in court.

Petitioner states the Ford Motor Company pension Division---U.A.W paid petitioner $139.00 a month from the beginning in 1971 and $203.00 a month from about 1980 and now says that petitioner owe them,